

RECEIVED
CENTRAL FAX CENTER
JUL 02 2008

Docket No.: 40302-0033
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Stephen D. Newman

Application No.: 10/527,383

Confirmation No.: 5729

Filed: March 11, 2005

Art Unit: 3728

For: CONTACT LENS PACKAGE AND STORAGE
CASE, HOLDER, AND SYSTEM AND
METHOD OF MAKING AND USING

Examiner: REYNOLDS, STEVEN
ALAN

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated April 2, 2008, requiring a response to an election/restriction requirement, please consider the following remarks:

The Examiner indicated that the patent application contains claims directed to the following alleged independent or patentably distinct inventions:

I – Claims 1-39, 47-54, 56-58, 61-68 and 70-98, drawn to a contact lens package;

II – Claim 40 drawn to a method of using a contact lens package;

III – Claims 41-46, 59-60 and 69, drawn to a method of distributing contact lenses; and

IV – Claim 55 drawn to a method of packaging.

Application No.: 10/527,383**Docket No.: 40302-0033**

Based on review of the claims, Applicants elect the claims of Group I, with traverse. Thus, claims 1-39, 47-54, 56-58, 61-68 and 70-98 are selected explicitly for examination.

However, Applicant respectfully submits that search and examination of groups I through IV can be made without serious burden. See MPEP §803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” (Emphasis added). This policy should apply in the present application to avoid unnecessary delay and expense to the Applicants and duplicative examination by the Patent Office.

Furthermore, the outstanding Office Action of April 2, 2008 requests election of a single disclosed species from the following identified groups:

Species 1 – Figures 1-7

Species 2 – Figure 8

Species 3 – Figures 9, 10

Species 4 – Figures 11, 12

Species 5 – Figure 13

Species 6 – Figures 14-16

Species 7 – Figures 17-19

Species 8 – Figures 20-21

Species 9 – Figure 22

Species 10 – Figures 23-25

Species 11 – Figures 26-27A

Species 12 – Figures 28-37

Species 13 – Figures 38-45

Application No.: 10/527,383

Docket No.: 40302-0033

Species 14 – Figure 46

Species 15 – Figure 47

Applicant is required to select one group of claims for examination at this time. In response, Applicant hereby elects Group 7, the contact lens storage case disclosed in relation to Figures 17-19, claims 25-39 and 70-90 for current examination on the merits. This election is made with traverse.

With respect to the non-elected claims, it is respectfully submitted that the subject matter of is sufficiently related that a thorough search for the subject matter of one of the species would encompass a search for the subject matter of the other species. See MPEP § 803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” (Emphasis added). This policy should apply in the present application to avoid unnecessary delay and expense to the Applicants and duplicative examination by the Patent Office.

Applicant submits this response with a payment for a two-month extension. If any other fee is due, please charge our Deposit Account No. 18-0013, under Order No. 40302-0033 from which the undersigned is authorized to draw.

Respectfully Submitted,

DATE: July 2, 2008

BY:



Bryan G. Pratt, Esq.

Registration No. 48,873

Rader Fishman & Grauer PLLC

River Park Corporate Center One

10653 S. River Front Parkway, Suite 150

South Jordan, Utah 84095

(801) 572-0185

(801) 572-7666 (fax)